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1997 Regular Session
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Introduced and read first time: January 31, 1997

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Administration - Access to Public Records**

3 FOR the purpose of prohibiting the disclosure of Motor Vehicle Administration records
4 containing certain personal information, unless the information is used by certain
5 persons for certain purposes and under certain circumstances; prohibiting the
6 person who receives personal information from using it in certain ways; requiring
7 the Administration to provide certain notice to certain individuals under certain
8 circumstances; authorizing certain individuals to prohibit the disclosure of certain
9 personal information under certain circumstances; authorizing the Administration
10 to disclose personal information under certain circumstances even if the individual
11 has not received a certain notice from the Administration; prohibiting the use of
12 personal information disclosed by the Administration for purposes of telephone
13 solicitation; authorizing individuals who suffer damage due to a violation of certain
14 provisions of law to recover their damages in a civil action; authorizing a criminal
15 penalty for certain misuse of disclosed personal information under certain
16 circumstances; requiring the Administration to adopt certain regulations;
17 authorizing the Administration to monitor compliance with certain provisions;
18 defining certain terms; making stylistic changes; providing for the effective date of
19 this Act; and generally relating to access to certain public records of the Motor
20 Vehicle Administration under certain circumstances.

21 BY repealing and reenacting, with amendments,

22 Article - State Government

23 Section 10-611 and 10-626

24 Annotated Code of Maryland

25 (1995 Replacement Volume and 1996 Supplement)

26 BY repealing and reenacting, without amendments,

27 Article - State Government

2

1 Section 10-627
2 Annotated Code of Maryland
3 (1995 Replacement Volume and 1996 Supplement)

4 BY adding to

5 Article - State Government
6 Section 10-616(n)
7 Annotated Code of Maryland
8 (1995 Replacement Volume and 1996 Supplement)

9 BY repealing and reenacting, with amendments,

10 Article - Transportation
11 Section 12-111 through 12-113
12 Annotated Code of Maryland
13 (1992 Replacement Volume and 1996 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - State Government**

17 10-611.

18 (a) In this Part III of this subtitle the following words have the meanings
19 indicated.

20 (b) "Applicant" means a person or governmental unit that asks to inspect a public
21 record.

22 (c) "Custodian" means:

23 (1) the official custodian; or

24 (2) any other authorized individual who has physical custody and control of
25 a public record.

26 (d) "Official custodian" means an officer or employee of the State or of a political
27 subdivision who, whether or not the officer or employee has physical custody and control
28 of a public record, is responsible for keeping the public record.

29 (e) "Person in interest" means:

30 (1) a person or governmental unit that is the subject of a public record or a
31 designee of the person or governmental unit;

32 (2) if the person has a legal disability, the parent or legal representative of
33 the person; or

34 (3) as to requests for correction of certificates of death under § 5-310(d)(2)
35 of the Health - General Article, the spouse, adult child, parent, adult sibling,
36 grandparent, or guardian of the person of the deceased at the time of the deceased's
37 death.

3

1 (F) (1) "PERSONAL INFORMATION" MEANS INFORMATION THAT
2 IDENTIFIES AN INDIVIDUAL INCLUDING AN INDIVIDUAL'S ADDRESS, DRIVER'S
3 LICENSE NUMBER OR ANY OTHER IDENTIFICATION NUMBER, MEDICAL OR
4 DISABILITY INFORMATION, NAME, PHOTOGRAPH OR COMPUTER GENERATED
5 IMAGE, SOCIAL SECURITY NUMBER, OR TELEPHONE NUMBER.

6 (2) "PERSONAL INFORMATION" DOES NOT INCLUDE AN INDIVIDUAL'S
7 DRIVER'S STATUS, DRIVING OFFENSES, 5-DIGIT ZIP CODE, OR INFORMATION ON
8 VEHICULAR ACCIDENTS.

9 [(f)] (G) (1) "Public record" means the original or any copy of any documentary
10 material that:

11 (i) is made by a unit or instrumentality of the State government or of
12 a political subdivision or received by the unit or instrumentality in connection with the
13 transaction of public business; and

14 (ii) is in any form, including:

- 15 1. a card;
- 16 2. a computerized record;
- 17 3. correspondence;
- 18 4. a drawing;
- 19 5. film or microfilm;
- 20 6. a form;
- 21 7. a map;
- 22 8. a photograph or photostat;
- 23 9. a recording; or
- 24 10. a tape.

25 (2) "Public record" includes a document that lists the salary of an employee
26 of a unit or instrumentality of the State government or of a political subdivision.

27 (3) "Public record" does not include a digital photographic image or
28 signature of an individual, or the actual stored data thereof, recorded by the Motor
29 Vehicle Administration.

30 (H) (1) "TELEPHONE SOLICITATION" MEANS THE INITIATION OF A
31 TELEPHONE CALL TO AN INDIVIDUAL OR TO THE RESIDENCE OR BUSINESS OF AN
32 INDIVIDUAL FOR THE PURPOSE OF ENCOURAGING THE PURCHASE OR RENTAL OF
33 OR INVESTMENT IN PROPERTY, GOODS, OR SERVICES.

34 (2) "TELEPHONE SOLICITATION" DOES NOT INCLUDE A TELEPHONE
35 CALL OR MESSAGE:

4

1 (I) TO AN INDIVIDUAL WHO HAS GIVEN EXPRESS PERMISSION TO
2 THE PERSON MAKING THE TELEPHONE CALL;

3 (II) TO AN INDIVIDUAL WITH WHOM THE PERSON HAS AN
4 ESTABLISHED BUSINESS RELATIONSHIP; OR

5 (III) BY A TAX-EXEMPT, NONPROFIT ORGANIZATION.

6 10-616.

7 (N) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
8 SUBSECTION, A CUSTODIAN MAY NOT KNOWINGLY DISCLOSE A PUBLIC RECORD OF
9 THE MOTOR VEHICLE ADMINISTRATION CONTAINING PERSONAL INFORMATION.

10 (2) A CUSTODIAN SHALL DISCLOSE PERSONAL INFORMATION WHEN
11 REQUIRED BY FEDERAL LAW.

12 (3) A CUSTODIAN MAY DISCLOSE PERSONAL INFORMATION:

13 (I) FOR USE BY A FEDERAL, STATE, OR LOCAL GOVERNMENT,
14 INCLUDING A LAW ENFORCEMENT AGENCY, OR A COURT IN CARRYING OUT ITS
15 FUNCTIONS;

16 (II) FOR USE IN CONNECTION WITH MATTERS OF:

17 1. MOTOR VEHICLE OR DRIVER SAFETY;

18 2. MOTOR VEHICLE THEFT;

19 3. MOTOR VEHICLE EMISSIONS;

20 4. MOTOR VEHICLE PRODUCT ALTERATIONS, RECALLS, OR
21 ADVISORIES;

22 5. PERFORMANCE MONITORING OF MOTOR VEHICLE PARTS
23 AND DEALERS; AND

24 6. REMOVAL OF NONOWNER RECORDS FROM THE
25 ORIGINAL RECORDS OF MOTOR VEHICLE MANUFACTURERS;

26 (III) FOR USE BY A PRIVATE DETECTIVE AGENCY OR SECURITY
27 GUARD SERVICE LICENSED BY THE SECRETARY OF STATE POLICE UNDER TITLE 13
28 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE FOR A PURPOSE
29 PERMITTED UNDER THIS PARAGRAPH;

30 (IV) FOR USE IN CONNECTION WITH A CIVIL, ADMINISTRATIVE,
31 ARBITRAL, OR CRIMINAL PROCEEDING IN A FEDERAL, STATE, OR LOCAL COURT OR
32 REGULATORY AGENCY FOR SERVICE OF PROCESS, INVESTIGATION IN
33 ANTICIPATION OF LITIGATION, AND EXECUTION OR ENFORCEMENT OF JUDGMENTS
34 OR ORDERS;

35 (V) FOR PURPOSES OF RESEARCH OR STATISTICAL REPORTING AS
36 APPROVED BY THE MOTOR VEHICLE ADMINISTRATION PROVIDED THAT THE
37 PERSONAL INFORMATION IS NOT PUBLISHED, REDISCLOSED, OR USED TO CONTACT
38 THE INDIVIDUAL;

5

1 (VI) FOR USE BY AN INSURER, INSURANCE SUPPORT
2 ORGANIZATION, OR SELF-INSURED ENTITY, OR ITS EMPLOYEES, AGENTS, OR
3 CONTRACTORS, IN CONNECTION WITH RATING, UNDERWRITING, CLAIMS
4 INVESTIGATING, AND ANTIFRAUD ACTIVITIES;

5 (VII) FOR USE IN THE NORMAL COURSE OF BUSINESS ACTIVITY BY A
6 LEGITIMATE BUSINESS ENTITY, ITS AGENTS, EMPLOYEES, OR CONTRACTORS, BUT
7 ONLY:

8 1. TO VERIFY THE ACCURACY OF PERSONAL INFORMATION
9 SUBMITTED BY THE INDIVIDUAL TO THAT ENTITY; AND

10 2. IF THE INFORMATION SUBMITTED IS NOT ACCURATE, TO
11 OBTAIN CORRECT INFORMATION ONLY FOR THE PURPOSE OF:

12 A. PREVENTING FRAUD BY THE INDIVIDUAL;

13 B. PURSUING LEGAL REMEDIES AGAINST THE INDIVIDUAL;
14 OR

15 C. RECOVERING ON A DEBT OR SECURITY INTEREST
16 AGAINST THE INDIVIDUAL;

17 (VIII) FOR USE BY AN EMPLOYER OR INSURER TO OBTAIN OR
18 VERIFY INFORMATION RELATING TO A HOLDER OF A COMMERCIAL DRIVER'S
19 LICENSE THAT IS REQUIRED UNDER THE COMMERCIAL MOTOR VEHICLE SAFETY
20 ACT OF 1986 (49 U.S.C. APP. ET SEQ);

21 (IX) FOR USE IN CONNECTION WITH THE OPERATION OF A PRIVATE
22 TOLL TRANSPORTATION FACILITY;

23 (X) FOR USE IN PROVIDING NOTICE TO THE OWNER OF A TOWED
24 OR IMPOUNDED MOTOR VEHICLE;

25 (XI) FOR USE BY AN APPLICANT WHO PROVIDES WRITTEN
26 CONSENT FROM THE INDIVIDUAL TO WHOM THE INFORMATION PERTAINS IF THE
27 CONSENT IS OBTAINED WITHIN THE 6-MONTH PERIOD BEFORE THE DATE OF THE
28 REQUEST FOR PERSONAL INFORMATION;

29 (XII) FOR A USE SPECIFICALLY AUTHORIZED BY THE LAW OF THIS
30 STATE, IF THE USE IS RELATED TO THE OPERATION OF A MOTOR VEHICLE OR
31 PUBLIC SAFETY; AND

32 (XIII) FOR INCLUSION IN LISTS OF INFORMATION TO BE USED FOR
33 SURVEYS, MARKETING, AND SOLICITATIONS PROVIDED THAT:

34 1. WHEN THE INDIVIDUAL IS APPLYING FOR OR RENEWING
35 A DRIVER'S LICENSE, CERTIFICATE OF TITLE, REGISTRATION, OR IDENTIFICATION
36 CARD, THE CUSTODIAN NOTIFIES THE INDIVIDUAL, IN A CLEAR AND CONSPICUOUS
37 MANNER, OF THE OPPORTUNITY TO PROHIBIT USE FOR THIS PURPOSE AND THE
38 INDIVIDUAL HAS NOT PROHIBITED USE FOR THIS PURPOSE;

6

1 2. THE PERSONAL INFORMATION IS USED SOLELY FOR
2 SURVEYS, MARKETING, OR SOLICITATIONS AND IS NOT USED FOR A PURPOSE NOT
3 APPROVED BY THE MOTOR VEHICLE ADMINISTRATION; AND

4 3. THE PERSONAL INFORMATION IS NOT USED FOR
5 TELEPHONE SOLICITATION.

6 (4) A CUSTODIAN DISCLOSING PERSONAL INFORMATION UNDER
7 PARAGRAPH (3) OF THIS SUBSECTION:

8 (I) SHALL LIMIT DISCLOSURE TO THE MINIMUM AMOUNT OF
9 PERSONAL INFORMATION REQUIRED TO ACCOMPLISH THE PURPOSE FOR WHICH
10 THE REQUEST IS MADE; AND

11 (II) MAY NOT DISCLOSE INFORMATION CONCERNING THE
12 PHYSICAL CHARACTERISTICS, MEDICAL CONDITION, OR DISABILITY OF AN
13 INDIVIDUAL UNLESS THE CUSTODIAN DETERMINES THAT DISCLOSURE OF THE
14 INFORMATION IS IN THE PUBLIC INTEREST AND WILL NOT UNDULY JEOPARDIZE
15 THE PRIVACY OF THE INDIVIDUAL.

16 (5) (I) A PERSON RECEIVING PERSONAL INFORMATION UNDER
17 PARAGRAPH (3) OF THIS SUBSECTION MAY NOT USE OR REDISCLOSE THE PERSONAL
18 INFORMATION FOR A PURPOSE OTHER THAN THE PURPOSE FOR WHICH THE
19 CUSTODIAN DISCLOSED THE PERSONAL INFORMATION.

20 (II) A PERSON RECEIVING PERSONAL INFORMATION UNDER
21 PARAGRAPH (3) OF THIS SUBSECTION WHO REDISCLOSES THE PERSONAL
22 INFORMATION SHALL:

23 1. KEEP A RECORD FOR 5 YEARS OF THE PERSON TO WHOM
24 THE INFORMATION IS REDISCLOSED AND THE PURPOSE FOR WHICH THE
25 INFORMATION IS TO BE USED; AND

26 2. MAKE THE RECORD AVAILABLE TO THE CUSTODIAN ON
27 REQUEST.

28 (6) (I) THE CUSTODIAN SHALL ADOPT REGULATIONS TO IMPLEMENT
29 AND ENFORCE THE PROVISIONS OF THIS SUBSECTION.

30 (II) 1. THE CUSTODIAN SHALL ADOPT REGULATIONS AND
31 PROCEDURES FOR SECURING A PERSON IN INTEREST'S WAIVER OF PRIVACY RIGHTS
32 UNDER THIS SUBSECTION WHEN AN APPLICANT REQUESTS PERSONAL
33 INFORMATION ABOUT THE PERSON IN INTEREST THAT THE CUSTODIAN IS NOT
34 AUTHORIZED TO DISCLOSE UNDER PARAGRAPH (2) OR (3) OF THIS SUBSECTION.

35 2. THE REGULATIONS AND PROCEDURES ADOPTED UNDER
36 THIS SUBPARAGRAPH SHALL:

37 A. STATE THE CIRCUMSTANCES UNDER WHICH THE
38 CUSTODIAN MAY REQUEST A WAIVER; AND

39 B. CONFORM WITH THE WAIVER REQUIREMENTS IN THE
40 FEDERAL DRIVER'S PRIVACY PROTECTION ACT OF 1994 AND OTHER FEDERAL LAW.

7

1 (7) THE CUSTODIAN MAY DEVELOP AND IMPLEMENT METHODS FOR
2 MONITORING COMPLIANCE WITH THIS SECTION AND ENSURING THAT PERSONAL
3 INFORMATION IS USED ONLY FOR PURPOSES FOR WHICH IT IS DISCLOSED.

4 10-626.

5 (a) A person, including an officer or employee of a governmental unit, is liable to
6 an individual for actual damages and any punitive damages that the court considers
7 appropriate if:

8 (1) (I) the person willfully and knowingly permits inspection or use of a
9 public record in violation of this Part III of this subtitle; and

10 [(2)] (II) the public record names or, with reasonable certainty, otherwise
11 identifies the individual by an identifying factor such as:

12 [(i)] 1. an address;

13 [(ii)] 2. a description;

14 [(iii)] 3. a finger or voice print;

15 [(iv)] 4. a number; or

16 [(v)] 5. a picture[.]; OR

17 (2) THE PERSON WILLFULLY AND KNOWINGLY OBTAINS, DISCLOSES, OR
18 USES PERSONAL INFORMATION IN VIOLATION OF § 10-616(N) OF THIS SUBTITLE.

19 (b) If the court determines that the complainant has substantially prevailed, the
20 court may assess against a defendant reasonable counsel fees and other litigation costs
21 that the complainant reasonably incurred.

22 10-627.

23 (a) A person may not:

24 (1) willfully or knowingly violate any provision of this Part III of this
25 subtitle;

26 (2) fail to petition a court after temporarily denying inspection of a public
27 record; or

28 (3) by false pretenses, bribery, or theft, gain access to or obtain a copy of a
29 personal record whose disclosure to the person is prohibited by this Part III of this
30 subtitle.

31 (b) A person who violates any provision of this section is guilty of a misdemeanor
32 and on conviction is subject to a fine not exceeding \$1,000.

33 **Article - Transportation**

34 12-111.

35 (a) The Administration shall keep a record of each application or other document
36 filed with it and each certificate or other official document that it issues.

8

1 (b) (1) [Except] SUBJECT TO § 10-616(N) OF THE STATE GOVERNMENT
2 ARTICLE, AND EXCEPT as otherwise provided by law, all records of the Administration
3 are public records and open to public inspection during office hours.

4 (2) Subject to paragraph (4) of this subsection, [in his discretion,] the
5 Administrator may classify as confidential and not open to public inspection any record or
6 record entry:

7 (i) That is over 5 years old; or

8 (ii) That relates to any happening that occurred over 5 years earlier.

9 (3) [Any] SUBJECT TO § 10-616(N) OF THE STATE GOVERNMENT
10 ARTICLE, A record or record entry of any age shall be open to inspection by authorized
11 representatives of any federal, State, or local governmental agency.

12 (4) Subject to paragraph (3) of this subsection, the Administrator may not
13 open to public inspection any record or record entry that is:

14 (i) All or part of a licensed driver's public driving record; and

15 (ii) Over 3 years old.

16 (5) Subject to paragraph (6) of this subsection, the Administration may not
17 permit public inspection of a digital photographic image or signature of an individual, or
18 the actual stored data thereof, recorded by the Administration.

19 (6) The Administration may make a digital photographic image or signature
20 of an individual, or the actual stored data thereof, recorded by the Administration
21 available to:

22 (i) The courts;

23 (ii) Criminal justice agencies;

24 (iii) Driver license authorities;

25 (iv) The individual;

26 (v) The individual's attorney; and

27 (vi) Third parties designated by the individual.

28 (c) Except for records required by law to be kept in their original or other
29 specified form, the Administrator may order any record of the Administration to be kept
30 on microfilm or in other microform, and the original destroyed.

31 (d) Except for records required by law to be kept longer, the Administrator may
32 destroy any record of the Administration that it has kept for 3 years or more and that the
33 Administrator considers obsolete and unnecessary to the work of the Administration.

34 12-112.

35 (a) Unless the information is classified as confidential under § 12-111 of this
36 subtitle or otherwise as provided by law, and subject to [the provisions of subsection (d)

9

1 of this section] § 10-616(N) OF THE STATE GOVERNMENT ARTICLE, the Administration
2 may furnish listings of vehicle registration and other public information in its records to
3 those persons who request them, but only if the Administration approves of the purpose
4 for which the information is requested.

5 (b) The Administration shall charge a fee for any listing furnished under this
6 section. The fee charged may not be less than the cost to this State of preparing that
7 listing. The revenue from the fee shall not be subject to the distribution provisions of Title
8 8, Subtitle 4 of this article.

9 (c) A person furnished any information under this section is prohibited from
10 distributing or otherwise using the information for any purpose other than that for which
11 it was [requested and] furnished.

12 (d) (1) [Except as provided in paragraph (2), upon written request by an
13 individual holding a license as defined in § 11-128, or by the owner of a vehicle registered
14 under this article, that information about that person not be disclosed, the
15 Administration may not, under this section, furnish to any person the name, address, or
16 other identifying information about the licensee or owner of the registered vehicle.] FOR
17 THE PURPOSES OF THIS SUBSECTION, "PERSONAL INFORMATION" HAS THE
18 MEANING INDICATED IN § 10-611(F) OF THE STATE GOVERNMENT ARTICLE.

19 (2) AN INDIVIDUAL MAY PROHIBIT DISCLOSURE OF PERSONAL
20 INFORMATION UNDER THIS SECTION WHEN APPLYING FOR OR RENEWING A
21 DRIVER'S LICENSE, CERTIFICATE OF TITLE, REGISTRATION, OR IDENTIFICATION
22 CARD OR BY NOTIFYING THE ADMINISTRATOR IN WRITING AT ANY TIME.

23 [(2)] (3) This subsection does not prevent the Administration from
24 furnishing PERSONAL information under this section:

25 (i) To another governmental agency; OR

26 (ii) [If not requested for the purpose of preparing a mailing list, to a
27 person requesting the information in connection with the compilation of statistical data;
28 or

29 (iii) As to the owners of vehicles registered under this article, to a
30 person whose request for the information is determined by the Administration to be
31 limited to, and necessary for, the protection of the ownership, safe operation, proper
32 maintenance, or repair of the vehicle] FOR ANOTHER PURPOSE PERMISSIBLE UNDER §
33 10-616(N) OF THE STATE GOVERNMENT ARTICLE.

34 12-113.

35 (a) (1) [The] SUBJECT TO § 12-111 OF THIS SUBTITLE AND § 10-616(N) OF
36 THE STATE GOVERNMENT ARTICLE, THE Administrator or any other officer or
37 employee of the Administration designated by the Administrator may furnish on request
38 a copy or a certified copy of any record of the Administration.

39 (2) The Administration may establish and charge a fee for each record it
40 furnishes or certifies. The revenue from the fee shall not be subject to the distribution
41 provisions of Title 8, Subtitle 4, of this article.

10

1 (3) No charge shall be made to a police agency, fire department, or court in
2 this or any other state or a police agency or court of the United States government.

3 (4) The fee established and charged under this section may exceed the
4 amounts authorized under § 10-621 of the State Government Article.

5 (b) (1) A certified copy of any record of the Administration or comparable
6 agency of any state is admissible in any judicial proceeding in the same manner as the
7 original of the record.

8 (i) A computer printout of any driving record or vehicle registration
9 record of the Administration that has been obtained by a police agency or court through
10 a computer terminal tied into the Administration is admissible in any judicial proceeding
11 in the same manner as the original of the record.

12 (ii) The computer printout of the driving record or vehicle registration
13 record shall contain:

14 1. The date the record was printed; and

15 2. A jurisdiction code identifying the site where the record was
16 printed.

17 (3) If a subpoena is issued to the Administrator or any other official or
18 employee of the Administration for the production in any judicial proceeding of the
19 original or a copy of any book, paper, entry, record, proceeding, or other document of the
20 Administration:

21 (i) The Administrator or other official or employee of the
22 Administration need not appear personally; and

23 (ii) Submission of a certified copy or photostat of the requested
24 document is full compliance with the subpoena.

25 (4) On motion and for good cause shown, the court may compel the
26 attendance of an authorized representative of the Administration to answer the subpoena
27 for the production of documents.

28 SECTION 2. AND BE IT FURTHER ENACTED, That the Motor Vehicle
29 Administration shall establish a procedure to allow an individual who, on the effective
30 date of this Act, has a current driver's license, certificate of title, registration, or
31 identification card, to contact the Administration for the purpose of prohibiting the
32 disclosure of personal information as provided in § 10-616(n)(3)(xiii)1 of the State
33 Government Article or § 12-112(d)(2) of the Transportation Article. Nothing in this Act
34 requires the Administration to provide the notice under § 10-616(n)(3)(xiii)1 of the State
35 Government Article and § 12-112(d)(2) of the Transportation Article before an
36 individual applies for renewal of a driver's license, certificate of title, registration, or
37 identification card. Unless an individual has objected to a disclosure of personal
38 information in accordance with the procedures established by the Administration, the
39 Administration may disclose personal information as provided by law notwithstanding
40 that the individual has not received notices under § 10-616(n)(3)(xiii)1 of the State
41 Government Article or § 12-112(d)(2) of the Transportation Article because the

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1 individual has not renewed a driver's license, certificate of title, registration, or
2 identification card.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 1997.